CABINET – 24 MAY 2019

SUPPORTING GROWTH IN LEICESTERSHIRE

JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES AND THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet of the financial challenges faced by the County Council arising from the significant housing and business growth planned across Leicestershire and the infrastructure required to support this. The report seeks the Cabinet's support for the steps being taken to address these challenges at a local and national level.

Recommendation

2. It is recommended that:

   (a) the significant forecasted population growth across Leicestershire, the consequential economic and housing growth planned to support this, and the financial risks faced by the County Council as the major infrastructure provider in the area, be noted;

   (b) the Council continue to press Government to ensure that the infrastructure required to make a success of its growth agenda is adequately and fairly funded;

   (c) the issues arising from the funding of the Melton Mowbray Distributor Road and the Melton North and South Sustainable Neighbourhoods including funding through developer contributions be noted and the need for a cost-sharing agreement with district councils to enable the County Council to forward fund the significant infrastructure costs through the use of additional tax revenues be supported;

   (d) this report be drawn to the attention of the Strategic Planning Group with the intention for sharing with the Member Advisory Planning Group (MAG) for Leicester and Leicestershire, the non-decision making member group which has overseen the production of the Strategic Growth Plan;

   (e) the intention to establish a Growth Unit within the Chief Executive's Department to strengthen the County Council's internal co-ordination and management of growth projects together with the demands placed on available capacity within Environment and Transport and Children and Family Services departments to ensure timely response to growth matters be noted.

Reasons for Recommendations

3. The financial risks faced by the County Council in delivering the infrastructure necessary to support growth in the County are significant. The introduction of cost/risk sharing arrangements with district councils, maximising developer contributions and increased income, will help to better manage these risks and share these in a way that is proportionate and fair.

4. The Government's approach to the allocation of growth income e.g. council tax, business rates, new homes bonus, grant funding etc., is having a detrimental effect on those authorities responsible for delivering growth related infrastructure. The County Council's ability to support and finance local growth needs is likely to be affected unless there is a change in approach at a national level.

5. The establishment of a central Growth Unit within the County Council will ensure that public services are effectively planned over the short, medium and long term across Leicestershire and that risks associated with the Council's financial contribution to large scale growth and infrastructure projects remain tightly managed.

6. Ensuring that developers make appropriate contributions to mitigate the consequences of their developments via developer contributions is essential if communities are not disadvantaged and to avoid the County Council being put under excessive financial demands which it will not be able to meet.

Timetable for Decisions (including Scrutiny)

7. Cost sharing arrangements will be negotiated with district councils where appropriate and as and when necessary in respect of specific projects.

8. Work to establish the Growth Unit has begun and the recruitment of officers to support this will be undertaken imminently.

9. A copy of this report and the decision of the Cabinet will be submitted to the Strategic Planning Group with the intention that it be shared at the Member Advisory Planning Group (MAG) meeting in July.

Policy Framework and Previous Decisions

10. The MTFS is the County Council's rolling financial plan that is updated annually. The current MTFS for the period 2019/20 to 2022/23 was approved by the County Council on 20th February 2019. This includes a capital programme of nearly £400m.

11. On 23 November 2018 the Cabinet approved the Strategic Growth Plan "Leicester and Leicestershire 2050: Our Vision for Growth" (SGP) which provides

an agreed local framework for considering the longer term needs of the area. This SGP was prepared and approved by the County Council and nine other partner organisations (the City Council, the seven district councils and the Leicester and Leicestershire Enterprise Partnership (LLEP)), following extensive consultation.

12. The Council's Strategic Plan (agreed by County Council on 6th December 2017), supported by the Council's Enabling Growth Plan, outlines the Council's long-term vision for the people and place of Leicestershire and sets the Council's five key outcomes for 2018 to 2022, which include facilitating the delivery of affordable and quality homes and building a strong economy.

13. In November 2017 the Cabinet approved a Joint Statement of Co-operation relating to Objectively Assessed Housing Need which confirms the commitment of partner organisations to collaborative working across Leicester and Leicestershire and accompanied the publication of the Housing and Economic Development Needs Analysis (HEDNA) completed in January 2017; a key piece of evidence which informed the preparation of the SGP by setting out forecasted housing and employment needs in the sub-region.

14. The Leicestershire County Council Planning Obligation Policy, adopted on 3 December 2014, sets out how the County Council will approach developer contributions through Section 106 obligations and includes a protocol between the County Council and the seven local planning authorities (district councils) on working arrangements. Following consultation, this policy is being reviewed. An updated policy will be the subject of a report to the Cabinet in June 2019.

Resource Implications

15. The capital programme as set out in the Council's MTFS for 2019/20 to 2022/23 reflects many of the growth demands forecasted across the County, including the investment required for major infrastructure to support growth. However, many potential schemes are not sufficiently detailed for formal inclusion in the capital programme at this stage. These are referred to in the MTFS as 'Future Developments' and a Future Developments fund is held to contribute to such schemes. The latest estimated requirement for Future Developments is £66m whilst only £8m of funding is currently identified. There is therefore a current capital funding gap of £58m.

16. This funding gap is expected to grow as the infrastructure requirements (in particular roads and schools) associated with anticipated population growth in Leicestershire over the next twenty years will be significant. This will have a considerable impact on the County Council's financial position.

17. By way of example, the County Council's commitment (and potential financial exposure) to deliver the scale of infrastructure required to support growth in Melton will require around £100m of investment net of grant funding (£160m gross). Though it is expected that most of this will be recouped in later years through developer contributions, it will require significant forward funding from the County Council, and there are risks to the Authority, including but not limited to:

the position adopted by developers, the approach of the borough council as the Local Planning Authority (LPA) and changes in guidance and development of case law. There is a heavy reliance on Melton Borough Council playing its part in securing and maximising the level of Section 106 of the Town and Country Planning Act 1990 – developer contributions (s106) funding required to recoup the County Council's investment. The experience of working with Melton Borough Council and the outcomes will inform negotiations with other district councils as their major housing developments evolve.

18. It is estimated that the new Growth Unit will cost approximately £500,000 per year, although some existing resource can be identified within the appropriate service areas to reduce this demand. As the Growth Unit will be established during this financial year, a full year's worth of costs will not be incurred and as such £250,000 will be allocated from the 2019/20 underspend. In addition to this, there will be an increase in staff resources within Strategic Property Services (still being quantified) aimed at improving the management of large scale growth projects. The costs of this will be recharged to the Corporate Asset Investment Fund. The impact within service departments, especially within the Children and Family Services and Environment and Transport Departments, also needs to be kept under review to ensure appropriate staff resource can be made available to support growth projects.

19. The Director of Environment and Transport, the Director of Children and Family Services and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

20. A copy of this report will be circulated to all members of the County Council.

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PART B

Background

21. The population of Leicestershire is projected to increase by 15.8% to 787,500 by 2041, an increase of 107,100 people from 2016. This expected increase is higher amongst all broad age bands than the East Midlands and England averages. The working age population is projected to increase by 5.3%, whilst the greatest cumulative change is projected to occur in the 65+ age group, accounting for roughly three quarters of growth. This brings associated impacts of an ageing population and the need for specialist housing to support this, as well as a requirement for more employment and general housing.

22. In 2016 the County Council and its partners (the City Council, the seven district councils and the Leicester and Leicestershire Enterprise Partnership (LLEP)) commissioned the Housing and Economic Development Needs Assessment (HEDNA). This was completed in January 2017 and provided evidence, at that time, about projected housing and employment needs from 2011 to 2031 and 2011 to 2036. This confirmed that an additional 96,580 homes and 367-423ha of land for employment use would need to be delivered across Leicester and Leicestershire for the period 2011-2031 with 117,900 homes and 459-497ha of land for employment use for the period 2011-2036. Notional needs (figures extrapolated from HEDNA) are for a further 90,516 homes for the period 2031-2050.

23. The link between infrastructure and growth is well established. Infrastructure such as roads, schools, community facilities and healthcare are all important not only in creating sustainable communities but also in unlocking development. This has been recognised at a national and local level through the establishment of new Government grants for growth infrastructure projects (for which the County Council has been successful in bidding but which can require significant match funding referred to later), but also locally through the development of the Leicester and Leicestershire Strategic Growth Plan by the County Council and its partners.

24. Despite this recognition, issues are beginning to arise as explained in the following paragraphs at both a national and local level which mean that, in practice, delivering infrastructure is increasingly complex and gives rise to significant risks for the County Council. Funding for these projects often comes from a variety of sources, including from developer contributions, but the timescales for receiving this money often do not align with when the money is needed. Contributions are also subject to negotiations with landowners and developers, who will have their own commercial interests to protect.

Financial Risks for the County Council

25. The infrastructure required to support the level of growth detailed above will be significant. The forecasted cost of delivering the infrastructure already identified/planned across the County is £600m over the next 25 years. Mostly this relates to schools (24 new schools required at a cost of around £200m) and

around £400m investment in roads and transport measures. In addition, there are other areas where investment will be required, for example in Adult Social Care accommodation particularly bearing in mind the demographic forecasts referred to above.

26. These demands come at a time when the County Council is facing significant financial, demographic and service demand challenges. In the Council's current MTFS savings of £74m over the next four financial years need to be delivered, with £13m to be made in 2019/20. This is a challenging task, especially given that savings of £200m have already been delivered over the last nine years. Over the period of the MTFS, growth of £50m is also required to meet demand and cost pressures on frontline services with £14m required in 2019/20.

27. The County Council has sought to maximise income for projects from other sources to ensure that planned strategic growth can take place and it will continue to do this wherever possible. So far this has included seeking funding from various Government backed grant schemes as well as early negotiations with land owners and developers to ensure that private contributions can be realised. However, this raises the following issues for the County Council:

- National funding for major transport infrastructure is now generally awarded through competitive bidding processes rather than direct award to local authorities. There is normally an expectation of a match funding contribution, often somewhere in the region of 15% to 30% of a project's total cost, without which the project would not be considered by the Government (in turn frustrating the delivery of associated development). Where match funding is to come from developer contributions, the County Council is dependent on district councils ensuring that the s106 process is well managed and funding is made available. Experience to date suggests that performance is mixed for a variety of reasons not always within the control of the districts councils as Local Planning Authorities.

- Invariably funding bids must include a business case, which in turn requires a significant degree of advanced scheme design work. The availability of advance design funds from external sources is variable. It is mainly awarded on a bidding basis with no consistent and/or guaranteed end-to-end stream of funding. These costs can be significant with the work undertaken being at risk, insofar as there is no guarantee of a funding bid being successful (Government funding pots are normally heavily oversubscribed).

28. By way of example, the proposed additional development committed within the recently adopted Melton Local Plan, around the town of Melton Mowbray, gives an insight into the scale of public investment required to ensure housing and business growth can take place. It highlights the financial risks such projects raise for the County Council as a major contributor particularly in the early stages of such a project. It also highlights the need for significant officer time from service departments, such as the Environment and Transport and Children and Family Services Departments, to input to the proposals.

29. The known infrastructure costs to build the Melton Mowbray Distributor Road (MMDR) and provide appropriate schools are in the region of £160m. A Government grant of £49m has already been secured towards these delivery costs in respect of the Northern and Eastern sections and a Housing Infrastructure Fund (HIF) bid for £13m has been submitted to Government for the Southern section. This, however, still leaves an estimated balance of around £100m to be identified.

30. The working assumption is that Government grants and s106 developer contributions will fill this gap. However, as is normal with any development, s106 developer funding is not recouped until a development has been granted planning permission and reached certain stages of occupation. There is therefore a requirement for the County Council to forward fund the project and this puts the County Council at significant risk, given that securing and maximising the necessary level of s106 developer contributions is outside of its control, this being managed by Melton Borough Council. The HIF funding bid for the Southern Section of the road is also yet to be determined.

31. It is also worth noting that the County Council has already invested £4m, at risk, to fund the business case development for the Northern and Eastern section of the MMDR.

<u>Addressing National Funding Arrangements</u>

32. The Government's approach to growth delivery is key. There have been many positive developments including the creation of enterprise zones and relaxations of housing authorities' use of Housing Revenue Account funds to invest in housing. Also, through Homes England, significant funding opportunities have been made available to support infrastructure, such as HIF (Highway Infrastructure Fund) and LAAC (Local Authority Accelerated Construction) which have a considerable, positive impact on the ability to deliver more homes or accelerate delivery.

33. However, the requirement for significant match funding and at-risk business case development for highways infrastructure will be an increasing barrier to bringing schemes forward. As outlined above, this approach requires recognition of significant risk. Forward investment by the County Council has to be carefully assessed given the wider and on-going pressures on revenue budgets, and the potential loss of accumulated growth funding from the business rates retention scheme. Unless these wider funding pressures are addressed through the Comprehensive Spending and Fair Funding reviews, the ability for the County Council to support the Government's housing delivery and economic growth ambitions will only reduce.

34. The current system of local government finance is a significant impediment to sensible decision making. The County Council has consistently argued against the 80/20 split of business rates and new homes bonus in favour of district councils on the basis that the extra income needs to go to the organisations (the county tier) with lead responsibility for ensuring infrastructure investment is progressed. The County Council continues to lobby the Government to apportion

the split proportionately to ensure growth projects are not curtailed or inhibited to the detriment of the communities affected.

Addressing Local Issues

35. The Leicester and Leicestershire Strategic Growth Plan -"Leicester and Leicestershire 2050: Our Vision for Growth" (SGP) agreed by the County Council and its partners took into account, along with other factors, the outcome of the HEDNA and sets the overarching strategy for addressing growth and development needs across Leicester and Leicestershire as a whole. The Plan enables partners to consider and plan for growth in a coordinated way up to 2050, beyond the reach of existing Local Plans.

36. The County Council is committed to supporting the delivery of the SGP and its own Strategic Plan for 2018 – 2022 sets out its priorities which include the delivery of a strong economy and affordable and quality homes.

37. Delivery of the SGP is reliant on district council Local Plans and both are important contributors to achieving the vision set out in the County Council's Strategic Plan.

38. However, despite this agreed joint approach and the positive contribution made by partners in the development of the SGP, there is growing concern that the approach being adopted in practice is not fully matching the ambition and commitment agreed, and in turn this is increasing the financial risks faced by the County Council.

39. Whilst the County Council accepts the development and delivery of schemes within the planning process is complex there are examples of delays in the processing of planning applications, the possible emergence of schemes within new Local Plans that appear to be inconsistent with the agreed SGP, the withholding of statements of support for funding submissions, the potential prioritisation of minor schemes over major infrastructure schemes from the local business rates pool, and a general lack of coordination of associated schemes (Sustainable Urban Extensions and Strategic Development Areas) with multiple developers within Local Plans, including the defining of ambitious s106 developer funding agreements.

40. As regards section 106 developer contributions, most contributions requested by the County Council are accepted by the district councils as Local Planning Authorities and incorporated into s106 agreements. However, there are a number of recent examples where contributions have not been accepted for legal or viability reasons or where the Local Planning Authority has chosen to prioritise other infrastructure.

41. The Cabinet receives regular updates on the level of section 106 developer contributions received and approved when a planning application is granted given concerns that the Council's reasonable expectations of receiving developer contributions are not always being met and therefore affect its ability to meet rising demands placed on services created by developments across the County.

Given the requirement for the County Council to forward fund some of the larger growth projects aimed at supporting such development as detailed above, it is important that the County Council works constructively with the district councils to maximise s106 contributions for infrastructure.

42. In respect of the business rate pilot, one of the key drivers for this and the business rate pool was to generate funds for infrastructure. The principle of using these funds for this purpose has now been supported in principle by LLEP partners, including the district councils. However, the actual amounts being made available, and the process for bidding into the pool are still to be agreed.

43. If the County's approach to supporting and delivering economic and housing growth were incorrect, the consequences would be significant. There are two possible scenarios: first, the growth just does not take place as infrastructure is not affordable, or secondly, growth takes place but with inadequate investment generating further financial pressure on the County Council. This second scenario is likely to result in increased road congestion and poor public services. There will also be serious consequences for the delivery of Local Plans, leading to unplanned growth in sensitive areas.

44. In light of these risks, the following arrangements are required to ensure the County Council can deliver its commitments to growth whilst ensuring greater control of the financial risks it faces and that district councils play their part.

Risk and Cost Sharing arrangements

45. As Local Plan site allocations come forward across all district areas, to help mitigate the impact, it is proposed that a risk and cost sharing agreement with individual district councils is developed. The principle has already been discussed with Melton Borough Council in relation to the Northern and Eastern sections of the distributor road and agreement reached on heads of terms. This is based on the following principles:-

- Ensuring additional tax revenues (business rates, council tax and new homes bonus) generated from the consequential housing and economic growth in the area are utilised to support the forward funding of the scheme and cover any potential ongoing funding shortfall. This will also go towards mitigating the risk that developer contributions fall short of the overall scheme costs;
- There is no request to divert funds from a district council's base budget;
- Actively seeking contributions from other sources such as the business rate pool, business rate pilot and other Government funding streams to fund the infrastructure;
- Ensuring developer funding from the proposed developments are maximised and secured as early in the development as possible;
- Establishing appropriate governance mechanisms;
- Agreeing viability assessment methodology and transparency of outcome.

Improved joint working around developer contributions

46. Positive steps have been taken over recent months to reduce the likelihood of s106 contributions being rejected by Local Planning Authorities. For instance, new processes have been agreed with district councils in relation to library and civic amenity contributions which have previously been rejected by some authorities as they did not meet the legal tests as set out in the Community Infrastructure Levy regulations. Agreement has also been reached with some district councils to have constructive discussions where viability issues arise, rather than the County Council's requests being rejected outright.

47. In relation to situations where reduced payments are claimed for viability reasons, the decision about what contributions to accept from a reduced overall pot rests with the individual Local Planning Authority. To reduce the potential impact on County Council services, discussions are underway to agree a new way of working to allow County Council officers including those from service departments the opportunity to review developers' viability claims and be more involved in s106 negotiations. It is intended that this will pave the way for a more positive and constructive way of working.

Improved Internal Management and Oversight Arrangements

48. Given both the opportunities and risks associated with accelerated growth delivery for the County Council it is proposed that a Growth Unit be established centrally within the Chief Executive's Department. This new unit will bring together in a single, multi-disciplinary team, the expertise both to drive the Council's overall growth agenda, but also specific large scale projects. It will provide greater focus and improve the Council's overall co-ordination of projects through the following:-

- Ensuring the County Council effectively delivers growth in support of the Council's Strategic Plan and MTFS;
- Coordinating the delivery of County Council-led development schemes;
- Coordinating the County Council's input into SUEs and other large developments in a way which maximises the delivery of outcomes and limits the financial risk to the County Council;
- Working collaboratively across the County Council recognising the key dependencies with the Economic Growth Team, Strategic Property Services and service departments, identifying where issues of capacity and the need for additional resources exist, particularly in the Environment and Transport and Children and Family Services Departments.

49. The Growth Unit will be responsible for the following:-

a) Identifying and defining land use opportunity;
b) Engaging with key partners to support the County Council's growth aspirations;

c) Programme management of the County Council's growth delivery activity;
d) Leading the design and establishment of appropriate growth delivery vehicles;
e) Leading the County Council's input into the negotiation of s106 developer contributions for major and/or sensitive schemes ensuring maximum benefit to the County Council's infrastructure and strategic outcomes;

Equality and Human Rights Implications

50. There are no Equality and Human Rights Implications directly arising from this report.

Risk Assessment

51. Large and complex projects that require upfront investment in order to generate future financial returns inevitably bring a significant degree of risk. The County Council is mindful of this and appropriate governance arrangements need to be in place to continually monitor such projects. The Growth Unit will ensure that adequate project specific governance is in place and that updates are also regularly provided to Members as appropriate.

Environmental Impact

52. There are no environmental implications arising directly from the contents of this report.

Background papers

County Council – 20 February 2019 - The County Council's Medium Term Financial Strategy for 2019/20 to 2022/23
http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MId=5125&Ver=4

Cabinet - 23 November 2018 – Leicester and Leicestershire Strategic Growth Plan 2018 - 2050
http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5185&Ver=4

County Council – 6 December 2017 – Strategic Plan 2018 - 2022
http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MId=5104&Ver=4

Cabinet – November 2017 - Joint Statement of Co-operation relating to Objectively Assessed Housing Need
http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=4865&Ver=4

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